

Document No. 3069
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: S.C. Code Section 48-1-10 *et seq.*

S.C. Regulation 61-62, Air Pollution Control Regulations and Standards, and the State Implementation Plan (SIP)

Preamble:

Pursuant to S.C. Code Section 48-1-10 *et seq.*, the South Carolina Department of Health and Environmental Control (Department) proposes to amend *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, and the State Implementation Plan (SIP), to incorporate revisions in the Federally approved State minor source permitting program that would support the Department's goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner.

Among the revisions being proposed are amendments to *S.C. Regulation 61-62.1, Definitions and General Requirements*, Section II - Permit Requirements, to clarify and streamline the Federally approved permitting program, which requires stationary sources planning to construct, alter or add to a source of air pollutants to first obtain a construction permit from the Department and to request an operating permit prior to placing the new or altered source into operation. The Department is also proposing to amend *S.C. Regulation 61-62.5, Standard No. 5.2, Control of Oxides of Nitrogen (NO_x)*, to make corrections and clarifications as needed to ensure consistency with the proposed amendments to Regulation 61-62.1. In addition, the Department is proposing to amend *S.C. Regulation 61-62.5, Standard No. 4, Emissions From Process Industries*, to remove the requirements of Section IV - Portland Cement Manufacturing.

The proposed amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, will require legislative review.

A Notice of Drafting for proposed amendments to Regulation 61-62, and the SIP, was published on April 22, 2005, in Volume 29, Issue No. 4, of the *South Carolina State Register*. A second Notice of Drafting, was published on November 25, 2005, in Volume 29, Issue No. 11, of the *South Carolina State Register*. A third Notice of Drafting, to extend the drafting period for these proposed amendments to Regulation 61-62, and the SIP, was published on March 24, 2006, in Volume 30, Issue No. 3, of the *South Carolina State Register*.

Discussion of Proposed Revisions

Regulation 61-62.1, Definitions and General Requirements

SECTION CITATION:

EXPLANATION OF CHANGE:

R. 61-62.1, Section II - Permit Requirements

Reorganized the entire Section II for clarification and to streamline the processes involved in applying for a construction permit and in requesting an operating permit.

R. 61-62.1, Section II (A)(1)(d)

A list of allowable preconstruction on-site activities that may be undertaken prior to obtaining a construction permit has been incorporated in the regulation.

R. 61-62.1, Section II (A)(3)

The timeframes for submitting written notifications for commencement of construction and for initial start-up of each new or altered source are being incorporated in the

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	regulation to ensure consistency with other applicable requirements.
R. 61-62.1, Section II (A)(5)	Added an 18-month construction permit expiration period in the regulation to be incorporated as a “Standard Permit Condition.”
R. 61-62.1, Section II (B) - Exemptions	Section II (F) redesignated as Section II (B) - Exemptions. Allowances for construction permit exemptions have been expanded by including more small sources and by applying the “less than 1 pound per hour” emission thresholds to other criteria pollutants (i.e., sulfur dioxide, nitrogen oxides, and carbon monoxide).
R. 61-62.1, Section II (B)(3)	Establishes a list of sources that are exempt without further review from the requirement to obtain a construction permit.
R. 61-62.1, Section II (B)(5)	Incorporated procedures for requesting exemptions for new sources similar to sources already on the Department maintained list.
R. 61-62.1, Section II (C)(3)	Clarified the information that needs to be provided in a construction permit application to help ensure submittal of complete applications and to decrease delays in permit activity associated with requests for more information.
R. 61-62.1, Section II (D)	New provisions added for the development of general construction permits which will facilitate the permitting process for similar sources certifying qualification for and agreeing to the conditions and terms of the general construction permit.
R. 61-62.1, Section II (E)	Amended the section pertaining to “synthetic minor permits” to clarify that this section addresses only construction permits, and not operating permits, for sources requesting federally enforceable limits for any purpose.
R. 61-62.1, Section II (E)(3)	Synthetic minor construction permit conditions have been added for clarification.
R. 61-62.1, Section II (E)(5)	Synthetic minor construction permit application requirements have been added.
R. 61-62.1, Section II (F)	Reorganized and clarified the sections pertaining to minor source operating permits.
R. 61-62.1, Section II (F)(2)	Added new provisions requiring certification of construction when requesting an operating permit.
R. 61-62.1, Section II (G)	Revised the “conditional major” section to address federally enforceable operating permits. Anyone with federally enforceable construction permits must have a conditional major (or a Title V) operating permit. The Department will

issue a conditional major operating permit to those sources that received a synthetic minor construction permit. Existing sources may also apply for a conditional major operating permit to implement federally enforceable limits.

R. 61-62.1, Section II (H)

Added a new Section II (H) for clarification of operating permit renewal request requirements.

R. 61-62.1, Section II (I)

Added new Section II (I) to develop and implement registration permits for various types of true minor sources applicable to the construction or operation of that specific category of stationary sources, thus eliminating the requirement for submittal of typical construction permit applications.

R. 61-62.1, Section II (J)

"Standard Permit Conditions" and "Special Permit Conditions" have been consolidated.

R. 61-62.1, Section II (K)

"Exceptions" have been moved and amended to create a stand alone section applicable to any permit.

R. 61-62.1, Section II (L)

"Emergency Provisions" have been moved and amended to create a stand alone section applicable to any permit.

R. 61-62.1, Section II (M)

Minor changes were made to the "Transfer of Ownership/Operation" language.

R. 61-62.1, Section II (N)

Moved the "Public Participation Procedures" (except "PSD" requirements) to a separate Section II (N) and included Department prerogative to require notice even where not required by regulation and to allow alternative methods or procedures for posting public notices.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 4 - Emissions From Process Industries

SECTION CITATION:

EXPLANATION OF CHANGE:

Standard No. 4, Section IV

Deleted the requirements of and reserved Section IV because all existing Portland Cement Manufacturing sources subject to Section IV are currently subject to, and will continue to be subject to, more stringent Federal rules.

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Regulation 61-62.5, Air Pollution Control Standards, Standard No. 5.2 - Control of Oxides of Nitrogen (NO_x)

SECTION CITATION:	EXPLANATION OF CHANGE:
Standard No. 5.2, Section I (a)(1)	Clarified applicability to sources constructed after June 25, 2004, the date this regulation was published as final in the <i>South Carolina State Register</i> .
Standard No. 5.2, Section I (b)(2)	Proposed amendments to ensure that exemptions are consistent with proposed amendments to Regulation 61-62.1, Section II - Permit Requirements.
Standard No. 5.2, Section I (b)(4)	Included exception for waste heat recovery from combustion control devices for exclusion from exemption.
Standard No. 5.2, Section III, Table 1	"Fuel Combustion Sources not Otherwise Specified" - Clarified the example source type concerning process heaters.

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invite interested members of the public to attend a staff-conducted informational forum to be held on August 28, 2006, at 10:00 a.m. in room 3380 at the Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The purpose of the forum is to receive comments from interested persons on the proposed amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, and the SIP.

Interested persons are also provided an opportunity to submit written comments to Dennis Camit at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on August 28, 2006. Comments received shall be submitted to the Board in a Summary of Public Comments and Department Responses.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Dennis Camit at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 898-4284.

Notice of Public Hearing and Opportunity for Public Comment Pursuant to S.C. Code Sections 1-23-110 and 1-23-111:

Interested members of the public and regulated community are invited to comment on the proposed amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, and the SIP, at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on October 12, 2006. The public hearing is to be held in room 3420 (Board Room) of the Commissioner's Suite, third floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit comments on the proposed amendments to Dennis Camit at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, Regulatory Development Section, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 898-4284. To be considered, comments must be received no later than 5:00 p.m. on August 28, 2006. Comments received shall be considered by the staff in formulating the final proposed regulation for public hearing on October 12, 2006, as noticed above. Comments received shall be submitted to the Board in a Summary of Public comments and Department Responses.

Preliminary Fiscal Impact Statement:

The proposed regulations will not result in any increased costs to the State or its political subdivisions. Existing staff and resources will be utilized to implement these amendments. The proposed amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, will benefit the Department by conserving resources associated with the review of construction permit applications and operating permit requests, and by facilitating compliance inspections conducted by regional staff.

Statement of Need and Reasonableness:

This statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: Amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*.

Purpose of Regulation: These amendments will incorporate revisions in the Federally approved State minor source permitting program that would support the Department's goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner. The Department's proposed amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, and the SIP, will streamline the process for obtaining a construction permit and for requesting an operating permit. These amendments will clarify the permitting process, provide more permitting options, and reduce the overall burden on the State permitting program and the regulated community.

Legal Authority: The legal authority for *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, is S.C. Code Section 48-1-10 *et seq.*

Plan for Implementation: The proposed amendments will take effect upon approval by the South Carolina Board of Health and Environmental Control, ratification by the General Assembly, and publication in the *South Carolina State Register*. Copies of the final regulation will be distributed to all stakeholders and the regulated community through electronic mail and by way of the postal service to a mailing list of interested parties, and via the internet on the Department web site.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATIONS BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The Department has conducted an analysis of the State air permitting program to ensure that we are meeting our goals of promoting and protecting the public health and the environment and doing so in the most efficient and effective manner. The Department proposes to amend *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, and the SIP, to implement amendments that would streamline the process for obtaining a construction permit and for requesting an operating permit. This Federally approved permitting program is generally referred to as the minor source permitting program to distinguish it from additional permitting requirements for major sources of air pollutants.

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Among the revisions being proposed are amendments to *S.C. Regulation 61-62.1, Definitions and General Requirements*, to clarify the prerequisites and streamline the processes prescribed by Section II - Permit Requirements, which requires stationary sources planning to construct, alter or add to a source of air pollutants to first obtain a construction permit from the Department and to request an operating permit prior to placing the new or altered source into operation. The Department is also proposing to amend *S.C. Regulation 61-62.5, Standard No. 5.2, Control of Oxides of Nitrogen (NO_x)*, to make corrections and clarifications as needed to ensure consistency with the proposed amendments to Regulation 61-62.1, Section II - Permit Requirements. In addition, the Department is proposing to amend *S.C. Regulation 61-62.5, Standard No. 4, Emissions From Process Industries*, to remove the requirements of Section IV - Portland Cement Manufacturing.

The proposed amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, will incorporate revisions to the Federally approved State minor source permitting program that would support the Department's goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner and will require legislative review.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions, nor will the proposed amendments result in any increased cost to the regulated community. The proposed amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, will benefit the Department by conserving resources associated with the review of construction permit applications and operating permit requests, and by facilitating compliance inspections conducted by regional staff. The Department believes that the proposed amendments will benefit the regulated community by clarifying the requirements for obtaining a permit, by ensuring consistency in permit conditions for construction and operating permits issued to similar sources, and by increasing the permit options available to a source.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the State or its political subdivisions. The proposed revisions will clarify the permitting process, provide more permitting options, and reduce the overall burden on the State permitting program and the regulated community.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, and the SIP, will provide continued protection of the environment and public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED:

There would be no detrimental effect on the environment and public health if these amendments to the Federally approved State minor source permitting program are not adopted. The intent of these proposed amendments is to streamline the permitting process in support of the Department's goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner.

STATEMENT OF RATIONALE:

In December of 2002, the South Carolina Chamber of Commerce Environmental/Technical Committee (Chamber Technical Committee) submitted a White Paper for consideration by the Department to address streamlining of the air construction permitting process. The Chamber Technical Committee's proposal was intended to be developed into guidance which would be available for use by permit engineers and the regulated community in order to reduce the time and resources needed for minor new construction projects or modifications to existing sources. The intent of the Chamber Technical Committee's proposal, and resulting guidance

document, was to ensure that all administrative and substantive requirements are satisfied and at the same time allow for operational flexibility for facilities subject to *S. C. Regulation 61-62, Air Pollution Control Regulations and Standards*.

The Department created an internal Streamlining Workgroup to study ways to provide permitting staff and the regulated community with terminology, tools, and workshops to make the environmental permitting process more efficient. The Department's Streamlining Workgroup targeted several problem areas believed to be significant obstacles to timely issuance of permits. Incomplete and inaccurate applications were determined to create a major backlog in the permitting process, thus hampering South Carolina industry's ability to respond to changing markets. The Department has proposed amendments to the regulations that are more prescriptive with reference to information required to be submitted with construction permit applications and has drafted new permit application forms to help ensure more complete and accurate submittals.

The Department organized a Permit Streamlining Stakeholders Workgroup consisting of Department staff and representatives from environmental groups and the regulated community to propose regulatory amendments to address problems identified in the Chamber Technical Committee's White Paper. After several stakeholder meetings, the proposed amendments to S. C. Regulation 61-62 were developed by consensus. The Department has agreed to expand the list of sources exempt from the requirement to obtain a construction permit and has drafted several guidance documents to facilitate the permitting process. The Department has also started to provide advanced technical workshops to the regulated community to prepare facilities for new or modified regulatory requirements, including training for future emissions inventory submittals, training for dry cleaners and other small businesses, and training for sources subject to new Maximum Achievable Control Technology (MACT) requirements. These activities and the proposed amendments will provide additional clarity and specificity to the existing regulations.

Text of Proposed Amendments to Regulation 61-62 for Public Comment:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 3070
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Section 44-55-10 *et seq.*

R. 61-58. State Primary Drinking Water Regulations

Preamble:

The Department proposes to revise the State Primary Drinking Water Regulation to include requirements promulgated under the National Primary Drinking Water Regulations: Stage 2 Disinfectants and Disinfection Byproducts Rule. The proposed regulation revision will amend the State Primary Drinking Water Regulations to comply with requirements of 40 CFR Parts 141 and 142. The final Stage 2 Disinfectants and Disinfection Byproducts Rule was published in the January 4, 2006 Federal Register.

In addition, the Department proposes to revise the State Primary Drinking Water Regulation to include requirements promulgated under the National Primary Drinking Water Regulations: Long Term 2 Enhanced Surface Water Treatment Rule. The proposed regulation revision will amend the State Primary Drinking Water Regulations to comply with requirements of 40 CFR Parts 141 and 142. The final Long Term 2 Enhanced Surface Water Treatment Rule was published in the January 5, 2006 Federal Register.